

ends before an employee attains age 65, any additional railroad service the employee has after the disability annuity ends can be credited as if no annuity had previously been paid.

§ 218.37 When a supplemental annuity ends.

A supplemental annuity ends when the employee age or disability annuity ends.

§ 218.38 When a spouse annuity ends.

(a) *General rules.* A spouse annuity ends with the earliest of—

- (1) The last day of the month before the month in which the spouse dies;
- (2) The last day of the month before the month in which the employee dies or the employee's entitlement to an annuity ends;
- (3) The last day of the month before the month in which the spouse's marriage to the employee is ended by absolute divorce, annulment, or other judicial action (the spouse may be entitled to a divorced spouse annuity as explained in part 216 of this chapter); or
- (4) The month shown in paragraphs (b) and (d) of this section.

(b) *Annuity entitlement based on "child in care."* A spouse annuity based on having a "child in care" ends as shown in this paragraph if he or she is not also eligible for a full-age spouse annuity as explained in part 216 of this chapter. However, see also paragraph (c) of this section. If the spouse is eligible for a full-age spouse annuity when he or she is no longer entitled on the basis of a child, his or her annuity is changed to a spouse annuity based on age. A spouse annuity based on having a "child in care" ends with the earliest of—

- (1) The last day of the month shown in paragraphs (a) and (d) of this section;
- (2) The last day of the month before the month in which the child is no longer in the spouse's care, as explained in part 216 of this chapter;
- (3) The last day of the month before the month in which the child attains age 18 and is not disabled;
- (4) The last day of the month before the month in which the child marries;
- (5) The last day of the month before the month in which the child dies; or

(6) The last day of the second month after the month in which the child's disability ends, if the child is over age 18.

(c) *Tier I benefit entitlement based on "child in care."* The tier I benefit of a spouse entitled because he or she has a "child in care" and is not otherwise entitled to a tier I benefit based on age, ends with the earliest of—

- (1) The last day of the month shown in paragraphs (a) and (d) of this section;
- (2) The last day of the month before the month in which the child is no longer in the spouse's care as explained in part 216 of this chapter;
- (3) The last day of the month before the month in which the child attains age 16 and is not disabled;
- (4) The last day of the month before the month in which the child marries;
- (5) The last day of the month before the month in which the child dies; or
- (6) The last day of the second month after the month in which the child's disability ends, if the child is over age 16.

(d) *Entitlement based on deemed marriage.* If the spouse entitlement is based on a deemed valid marriage, the annuity ends with the earliest of—

- (1) The last day of the month shown in paragraphs (a) and (b) of this section;
- (2) The last day of the month before the month in which the deemed spouse enters a valid marriage with someone other than the employee; or
- (3) The last day of the month before the month in which the Board approves an award to someone else as the employee's legal spouse.

§ 218.39 When a divorced spouse annuity ends.

A divorced spouse annuity ends with the earliest of the last day of the month before the month in which the—

- (a) Divorced spouse dies;
- (b) Employee's entitlement to an annuity ends;
- (c) Divorced spouse marries;
- (d) Employee dies; or
- (e) Divorced spouse becomes entitled to a retirement or disability insurance benefit under the Social Security Act based on a primary insurance amount which equals or exceeds the amount of

the full divorced spouse annuity before reduction for age.

§218.40 When a widow(er) annuity ends.

(a) *Entitlement based on age.* When a widow(er)'s annuity is based on age, the annuity ends with the earliest of the last day of the month before the month in which—

- (1) The widow(er) dies;
- (2) The widow(er) remarries (the widow(er) may be entitled to benefits as a remarried widow(er) as explained in part 216 of this chapter);
- (3) The widow(er) becomes entitled to another survivor annuity in a larger amount, unless he or she elects to be paid the smaller annuity; or
- (4) The Board approves an award to someone else as the employee's legal widow(er) if entitlement is based on a deemed valid marriage.

(b) *Disabled widow(er).* If entitlement is based on the widow(er)'s disability, the annuity ends with the earliest of—

- (1) The last day of the month shown in paragraph (a) of this section;
- (2) The last day of the second month following the month in which the disability ends; or
- (3) The last day of the month before the month in which the widow(er) attains age 60 (the disability annuitant then becomes entitled to an annuity based upon age).

(c) *Annuity entitlement based on "child in care."* A widow(er) annuity based on having a "child in care" ends as shown in this paragraph if he or she is not eligible for a widow(er) annuity based on age as explained in part 216 of this chapter. However, see also paragraph (d) of this section. If the widow(er) is eligible for a widow(er) annuity based on age, when he or she is no longer entitled on the basis of having a "child in care," his or her annuity is changed to a widow(er) annuity based on age. A widow(er) annuity based on having a "child in care" ends with the earliest of—

- (1) The last day of the month shown in paragraph (a) of this section;
- (2) The last day of the month before the month in which the child is no longer in the widow(er)'s care as explained in part 216 of this chapter (in this case entitlement to the annuity

does not terminate, but no annuity is payable while the child is no longer in care);

(3) The last day of the month before the month in which the child attains age 18 and is not disabled;

(4) The last day of the month before the month in which the widow(er) attains age 65 (the "child in care" annuity is changed to an age annuity);

(5) The last day of the month before the month in which the child marries;

(6) The last day of the month before the month in which the child dies; or

(7) The last day of the second month after the month in which the child's disability ends, if the child is over age 18.

(d) *Tier I benefit entitlement based on child in care.* The tier I benefit of a widow(er), entitled because he or she has a "child in care" and is not otherwise entitled to a tier I benefit based on age, ends with the earliest of—

(1) The last day of the month shown in paragraph (a) of this section;

(2) The last day of the month before the month in which the child is no longer in the widow(er)'s care as explained in part 216 of this chapter;

(3) The last day of the month before the month in which the child attains age 16 and is not disabled;

(4) The last day of the month before the month in which the child marries;

(5) The last day of the month before the month in which the child dies; or

(6) The last day of the second month after the month in which the child's disability ends, if the child is over age 16.

§218.41 When a child annuity ends.

A child annuity ends with the earliest of—

(a) The last day of the month before the month in which the child marries;

(b) The last day of the month before the month in which the child dies;

(c) The last day of the month before the month in which the child attains age 18 if the child is not eligible for an annuity as a disabled or student child;

(d) The last day of the last month in which the child is considered a full-time student, as defined in part 216 of this chapter, if the child is a full-time student age 18 through 19; or